

REMARKS

The specification has been amended to update priority information. No new claim of priority has been made. Also, the Abstract has been amended to conform with the allowed claims.

A Supplemental Declaration, an Application Data Sheet, a Petition to Correct Inventorship under 37 C.F.R. § 1.48 (b), and PTO form 1449 (along with four references) is also submitted herewith.

No new matter has been added.

Entry of this Amendment, the Supplemental Declaration, the Application Data Sheet, and the Petition to Correct Inventorship under 37 C.F.R. § 1.48 (b) is respectfully requested.

Application Data Sheet

An Application Data Sheet is submitted herewith that reflects the change of priority made in the first paragraph of the specification and in the Supplemental Declaration.

Petition to Correct Inventorship Under 37 C.F.R. § 1.48 (b)

A petition to correct inventorship under 37 C.F.R. § 1.48 (b) is also submitted herewith. Applicant is requesting that Hong Fu be deleted as inventor in the above-identified application. During prosecution of the application, cancellation of claims has resulted in the invention of Hong Fu no longer being claimed.

PTO Form 1449

The enclosed PTO form lists three references which Applicant believes are cumulative to art already made of record during the prosecution of the subject application. Applicant also believes that the three references do not affect the patentability of the allowed claims. The PTO form 1449 also lists the International Search Report received for PCT/US98/08792. It is understood that the Office is under no obligation to consider the documents at this time; however, Applicant respectfully requests that the 1449 form be placed in the file to make the record complete.

Assignment Issues

The subject application is a continuation of U.S. Serial No. 09/073,538 (hereinafter the '538 application), filed 6 May 1998, now U.S. Patent No. 6,558,942 (hereinafter "the 942 Patent"). During prosecution of the '538 application, inventorship changed from five inventors to two due to amendments to the claims. Subsequently, the '942 Patent issued with two inventors both of whom should have assigned their rights to the Board of Trustees of the Leland Stanford Junior University (hereinafter "Stanford"). By mistake, no Assignment was filed during the prosecution of the '538 application. Accordingly, an Assignment will be faxed shortly to the United States Patent and Trademark Office Assignment Division requesting that the '538 application, now U.S. Patent No. 6,558,942, be assigned to Stanford.

In addition, the present application should be assigned to both Stanford and to Kosan Biosciences, Inc. The allowed claims are the contribution of four inventors, two of which are assigning their rights to Stanford (Camilla M. Kao and Chaitan Khosla) and two of which are assigning their rights to Kosan Biosciences, Inc. (Gary Ashley and Robert McDaniel). It should

also be noted that Hong Fu, as described above, is being removed as an inventor. Assignments will be faxed shortly to the Assignment Division requesting that the subject application be assigned to both entities. Thus, upon filing of the Assignment documents with the Assignment Division, the ownership rights of the subject application and the parent application should be perfected.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 300622000501.

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Respectfully submitted,

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